

MINUTES

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT

Monday December 3, 2001

Division One

A092608 -- In re the Marriage of John Oliver and Deborah Preston.

The order is affirmed. Stein, Acting P.J. We Concur: Swager, J.,
Marchiano, J. (Not for Publication.)

A095648 -- The People v. Timothy Shoemaker.

The court is ordered to issue a corrected abstract of judgment to reflect
appellant's correct name. In all other respects, the judgment is affirmed. Swager,
J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION ONE

Monday, December 3, 2001

The Court convened at 9:00 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Swager, J., and Marchiano, J.; N. Millner, Deputy Clerk, and G. Pini, court security.

- A088687 The People,
 v.
 William Moalem.
Cause called and argued by Geoffrey Rotwein, counsel for appellant, and Gerald Engler, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A091926 The People,
 v.
 Richard Marcum Quilopras.
Cause called and argued by Stephen B. Bedrick, counsel for appellant, and Christopher Grove, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A091777 The People,
 v.
 James Butler.
Cause called and argued by David S. Krueger, counsel for appellant, via teleconference, and Martin S. Kaye, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A093228 Mark Bearchild, et al.,
 v.
 California Department of Highway Patrol, et al.
Cause called and argued by Annmarie Billotti, counsel for appellants, and Selma M. Inan, Deputy Attorney General, counsel for respondents. Cause ordered submitted.

A094485 Russian River Watershed Protection Committee,
v.
Russian River County Sanitation District, et al.
Cause called and argued by Dotty E. Lemieux, counsel for appellant, and
Gregory T. Dion, Deputy County Counsel, counsel for respondent. Cause
ordered submitted.

Court recessed until 1:30 p.m.

MINUTES

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION ONE

Monday, December 3, 2001

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco. Present: Stein, Acting P.J., Swager, J., and Marchiano, J.; B. Robbins, Deputy Clerk; and CHP Officer T. Tam, Bailiff.

- A091687 The People,
 v.
 Alisi Mapa.
Cause called and argued by John Halley, counsel for appellant, and Gerald Engler, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A091823 The People,
 v.
 Paul Joe Gonzalez.
Cause called and argued by Scott F. Kauffman, counsel for appellant, and Ronald Niver, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A089978/
A091120 Mattaniah Eytan,
 v.
 Jonathan Wan.
Cause called and argued by James B. Kraus, counsel for appellant/cross-respondent Wan, and Mattaniah Eytan, respondent/cross-appellant in pro per. Cause ordered submitted.
- A093277 Bodrell Joer'dan Smith,
 v.
 Hopland Band of Pomo Indians, et al.
Cause called and argued by Eugene L. Bass, counsel for appellant, and Lester J. Marston, counsel for respondents. Cause ordered submitted.

Court adjourned.

There were no cases argued on December 4, 2001.

Monday December 3, 2001 (continued)

Division Two

A096940 -- Ronnie Earl Howard v. The Superior Court of Alameda County; People of the State of California, R.P.I.

By the Court: The petition for writ of mandate is denied. Kline, P.J.

A095576 -- The People v. Joseph Eddy Lepage, Jr.

The judgment is affirmed. Haerle, J. We Concur: Lambden, J., Ruvolo, J.
(Not for Publication.)

Division Four

A094507 -- The People v. Marayamah Muhammed Smith.

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

Tuesday, December 4, 2001

Division Two

A094437 -- The People v. Nicholas Leonard Marcellino.

The order revoking appellant's probation and ordering execution of his previously imposed sentence is affirmed. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Wednesday, December 5, 2001

Division One

A092284 -- The People v. Jerry Allen Theis.

The order is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

Division Two

A092504 -- Flying Dutchman Park, Inc. v. City and County of San Francisco.

Order Modifying Opinion. The Court: It is ordered that the opinion filed herein on November 20, 2001, be modified in the following particulars: (See order.) There is no change in the judgment. Kline, P.J. (Certified for Publication.)

A096978 -- Jose R. Perez et al. v. Anne Tamiko Omura et al.

The petition for writ of supersedeas/stay is denied. Petitioners have a remedy at law by way of filing an appeal bond or undertaking. (See *Dowling v. Zimmerman* (2001) 85 Cal.App.4th 1400.) Lambden, Acting P.J.

COURT OF APPEAL
STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION THREE
MINUTES

Wednesday, December 5, 2001

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California.

Present: McGuiness, P.J., Corrigan J., Parrilli, J., and I. Calanoc, Deputy Clerk.

A095992 Social Services Agency,

v.

Emmanuel R. et al.

Cause called and argued by Deputy County Counsel Calvin James, counsel for appellant; Janet Sherwood, counsel for respondent father, Jennifer Turk, counsel for respondent mother, and Donna Furth, counsel for respondent minor. Cause ordered submitted.

A094811 C&G Development Co.,

v.

San Francisco Petroleum Co.

Cause called and argued by Jeffrey Fettner, counsel for appellant, and Cameron Kirk, counsel for respondent. Cause ordered submitted.

A093374 Whirlpool Corporation,

v.

California State Board of Equalization.

Cause called and argued by Richard Rapoport, counsel for appellant, and Deputy Attorney General Julian Standen, counsel for respondent. Cause ordered submitted.

A087473 George Borg,

v.

Transamerica Insurance Company.

Cause called and argued by Ron Leaf, counsel for appellant, and James Sarraill, counsel for respondent. Cause ordered submitted.

A093660 Juanita Chandler et al.,

v.

Louis Sandoval.

Cause called and argued by Mark Solomon, counsel for appellant, and Norbert Stahl, counsel for respondents. Cause ordered submitted.

COURT ADJOURNED

Wednesday, December 5, 2001 (continued)

Division Four

A094014 -- The People v. Steven Leonard Dix.

The judgment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

A094022 -- The People v. Far West Insurance Company.

Order Modifying Opinion and Denying rehearing. By the Court: It is ordered that the opinion filed herein on November 6, 2001, be modified in the following particulars: (See order.) The above modification does not effect any change in the judgment. The petition for rehearing is denied. Reardon, Acting P.J. (Certified for Publication.)

Division Five

A096929 -- Jennina Dayao v. The Superior Court of San Mateo County; The People, R.P.I.

The Court.* Let a peremptory writ of mandate issue commanding responding superior court to vacate its previously imposed sentence and to resentence petitioner in accordance with the views expressed in this opinion. This decision shall be final as to this court immediately. (Cal. Rules of Court, rule 24(d).) (Not for Publication.)

*Before Jones, P.J., Stevens, J. and Simons, J.

A091082 -- The People v. Troy William Thompson.

The judgment of conviction and sentence are affirmed, except that the second of the two five-year terms imposed under Penal Code section 667, subdivision (a), is ordered vacated. The matter is remanded to the trial court, with instructions to prepare a corrected abstract of judgment, and to forward the corrected abstract to the Department of Corrections. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

Thursday, December 6, 2001

Division One

A091777 -- The People v. James Butler.

The judgment is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A091823 -- The People v. Paul Joe Gonzalez.

Under the authority reviewed above, the statements the media elicited from Gonzalez, after he invoked his Miranda rights, were not obtained in violation of his Fifth Amendment privilege against self-incrimination. The judgment is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A091687 -- The People v. Alisi Mapa.

The judgment of conviction is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

A093809 -- In re Keaondra P. et al., Persons Coming Under the Juvenile Court Law. Contra Costa County Social Services Department v. Eli P.

The order terminating appellant's parental rights is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Thursday, December 6, 2001 (continued)

Division Three

A093820 -- The People v. Mark Lee Gray.

Mark Gray appeals from a judgment of conviction entered upon a plea of nolo contendere. Appellant's court-appointed counsel has briefed no issues and asks this court to review the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436. Appellant pleaded to nolo contendere but did not obtain a certificate of probable cause (Pen. Code, § 1237.5) or specify in his notice of appeal that the sought relief based solely on grounds occurring after the entry of the plea that do not challenge its validity. Pursuant to California Rules of Court, rule 31(d), the appeal is inoperative and accordingly is dismissed. (*People v. Stubbs* (1998) 61 Cal.App.4th 243, 244-245.) McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Five

A093900 -- In re Derrick R., a Person Coming Under the Juvenile Court Law. The People v. Derrick R.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Thursday, December 6, 2001

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Reardon, Acting P.J., Sepulveda, J., and Kay, J.; Channing Hoo, Deputy Clerk; CHP Officer Jason Keirse, Bailiff.

A094029 People
 v.
 Alexander Harp
Cause called. Eleanor Kraft teleargued for appellant Harp. Amy Haddix argued for respondent. Cause submitted.

A088418 People
 v.
 Juan Merced
Cause called. Philip Brooks argued for appellant Merced. Amy Haddix argued for respondent. Cause submitted.

A090761 In re the Marriage of Anderson
 Harriet Anderson
 v.
 Robert Scott Anderson
Cause called. In pro per appellant Harriet Anderson teleargued. Ronald Summerour teleargued for respondent. Cause submitted.

A091877 Brent Ferguson et al.
 v.
 Lieff, Cabraser, Heimann & Bernstein et al.
Cause called. David Becht argued for appellants Ferguson et al. Jerome B. Falk, Jr. argued for respondents. Cause submitted.

The Court recessed at 11:12 a.m.

CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR

Thursday, December 6, 2001

The Court reconvened at 1:30 p.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Reardon, Acting P.J., Sepulveda, J., and Kay, J.; Channing Hoo, Deputy Clerk; CHP Officer Tony Tam, Bailiff.

A092754 Lynn Lynch et al.

A093319 v.

Emeric Delczeg et al.

Causes called. Michael E. Adams argued for appellants Delczeg et al. Kenneth P. Gray argued for respondents. Causes submitted.

A094434 Neeraj Punglia

v.

State of California et al.

Cause called. Edith Benay argued for appellant Punglia. Barbara J. Wills argued for respondents. Cause submitted.

The Court adjourned at 2:09 p.m.

Friday, December 7, 2001

Division One

A093228 -- Mark Bearchild et al. v. State of California, et al.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

A094627 -- In re Serena G., a Person Coming Under the Juvenile Court Law. The People v. Serena G.

We therefore remand the matter to the trial court with directions to specify that the maximum term of confinement is six months. In all other respects, the judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

Division Two

A094073 -- In re Victor R., a Person Coming Under the Juvenile Court Law. The People v. Victor F.

The judgment (order of wardship) is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Certified for Partial Publication.)

Division Three

A093660 -- Juanita Chandler et al. v. Louis Sandoval.

The order is affirmed. Respondents are awarded their costs on appeal. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Friday, December 7, 2001 (continued)

Division Four

A092258 -- H & H Real Estate Management & Development v. Sanitary District No. 1 of Marin County.

The judgment is affirmed. The parties shall bear their respective costs on appeal. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

A094029 -- The People v. Alexander Owen Harp.

Because the People, in the initiative, expressly provided for prospective application to those convicted on or after July 1, 2001, the pendency of appellant's appeal from a conviction predating July 1, 2001, is a fact of no legal or constitutional significance. (See *In re Estrada* (1965) 63 Cal.2d 740, 744; *Dobbert v. Florida* (1977) 432 U.S. 282, 301.) The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

Division Five

A094001 -- In re Joyce F. et al., a Person Coming Under the Juvenile Court Law. San Mateo County Department of Social Services v. Jill. H. et al.

The order of the juvenile court placing the children in long-term foster care is reversed, and the matter is remanded to the juvenile court with directions (1) to determine whether notice was given to an identified tribe or to the Secretary of the Interior pursuant to the Indian Child Welfare Act, and (2) if notice was not given, to order the DSS to provide the proper notice. If, after notice is properly given, no tribe indicates that the children are Indian children within the meaning of the Indian Child Welfare Act, then the juvenile court shall reinstate the order placing the children in long-term foster care. In all other respects the judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

A092802 -- The People v. Thomas F. Riseley.

The judgment is reversed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Monday, December 10, 2001

Division Two

A095124 -- County of Lake v. Christopher Palla.

A095126 -- County of Lake v. Douglas R. Hill.

A095127 -- County of Lake v. Harry R. Abram.

The orders are reversed and the cases are remanded to the trial court for proceedings consistent with this opinion. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Certified for Publication.)

Division Four

A095263 -- In re King D., a Person Coming Under the Juvenile Court Law. The People v. King D.

The judgment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

A095308 -- Bonfare Markets, Inc. v. Penterra Marina Bay LLC et al.

The judgments are affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A091113 -- Albert F. Gionfrido v. Major League Baseball et al.

A092225 -- Peter J. Coscarart et al. v. Major League Baseball et al.

The judgments are affirmed. Defendants shall recover their costs for both appeals. Simons, J. We Concur: Jones, P.J., Stevens, J. (Certified for Partial Publication.)

Tuesday, December 11, 2001

Division One

A092268 -- Christina Lockett, a Minor, etc., et al. v. Budget Rent-A-Car.

By the Court: Order Modifying Opinion and Denying Rehearing. The opinion filed on November 15, 2001, is modified as follows: (See order.) In all other respects, the opinion remains the same. The modification does not effect a change in the judgment . The petition for rehearing is denied. Stein, Acting P.J.

A093178 -- In re Troy S., a Person Coming Under the Juvenile Court Law. The People v. Troy S.

The order is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

Division Two

A097052 -- Marjorie Knoller v. The Superior Court of San Francisco County; People of the State of California, R.P.I.

By the Court: The petition for prohibition/stay is denied. Haerle, Acting P.J.

A091941 -- Ronald Kriletich v. Alameda County Registrar of Voters et al.

The judgment is affirmed. Kline, P.J. We Concur: Haerle, J., Ruvolo, J. (Not for Publication.)

A092281 -- Redevelopment Agency of The City and County of San Francisco v. Charlie Walker.

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Tuesday, December 11, 2001 (continued)

Division Three

A094811 -- C&G Development Co. v. San Francisco Petroleum Co., Inc.

Judgment affirmed. Appellant to bear costs of the appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A094841 -- Laurel Glen Convalescent Hospital, Inc. v. Diane Bonta, et al.

The appeal is dismissed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A095992 -- In re Emmanuel R., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Beatrice R., et al.

The juvenile court's visitation order is affirmed. The stay previously entered shall be lifted immediately upon filing of this opinion. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Certified for Publication.)

A094288 -- Winslow C. Rouse v. Jeannine Deer.

By the Court: The petition for rehearing is denied. McGuiness, P.J.

Division Four

A094810 -- In re Angelo M., a Person Coming Under the Juvenile Court Law. San Francisco Department of Human Services v. Rebecca F.

The order of dismissal is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

A092090 -- Estate of Frederick W. Williams, Deceased.

The order is affirmed. Costs are awarded to respondent. Reardon, Acting P.J., Sepulveda, J., Kline, P.J.* (Not for Publication.)

*Presiding Justice of Division Two of the First Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.

Tuesday, December 11, 2001 (continued)

Division Five

A093589 -- The People v. Keith Robert Meloney.

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Certified for Partial Publication.)

Wednesday, December 12, 2001

Division One

A090791 -- Coast Commercial Bank v. Atilio Quartaroli, et al.

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

Division Two

A092215 -- Richard Gehrs v. Planned Parenthood Golden Gate et al.

We affirm the trial court's order to the extent it denied the motion to strike Planned Parenthood's claims and reverse the order to the extent that it denied the motion to strike Gibson's claims. We remand with directions to the trial court to grant the motion to strike Gibson's claims and reconsider the issue of whether Gehrs is entitled to attorney fees. Each party is to bear their own costs on appeal. Haerle, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

A096795 -- HUP, Inc. v. The Superior Court of Napa County; Sara Rain Nelson, R.P.I.

The petition for writ of mandate is denied. Haerle, Acting P.J.

A095109 -- The People v. Danny Reuben Kerbs.

We note that appellant was represented by counsel throughout the proceedings and that his waivers of the right to a jury were constitutionally sound. We find no other issues which require further briefing and the judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A093497 -- In re Jesse M., a Person Coming Under the Juvenile Court Law. Alameda County Social Services Agency v. Esperanza G.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A091627 -- The People v. Robert Turner.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Wednesday, December 12, 2001 (continued)

A094753 -- The People v. Yolanda Rene Wright.

Our review of the record discloses that appellant was represented by counsel throughout the proceedings and that her waiver of a trial, considered in view of the admonishments she received and her declarations, indicates that such waiver was informed and voluntary. We discern no sentencing error and find no issues that require further briefing before the court. Accordingly, the judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A092699 -- In re Edward Ramirez, on Habeas Corpus.

The trial court's order is reversed. The court is directed to enter an order granting the habeas corpus petition, and requiring the Board to conduct another parole suitability hearing. The court shall order the Board to render a decision conforming with the following guidelines: The Board must consider the gravity and the public safety implications of Ramirez's offenses as they compare with other similar offenses, and in light of the terms prescribed by the Legislature for such offenses. The Board must consider Ramirez's psychological profile as a factor favoring his application for a parole date, unless a new psychological evaluation supports a different conclusion. The Board must also consider Ramirez's work history, educational achievements, and volunteer work in community service during his years in prison as factors supporting his application. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Certified for Publication.)

A093374 -- Whirlpool Corporation et al. v. State Board of Equalization.

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Four

A090761 -- In re the Marriage of Harriet and Robert Anderson.

The orders are affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Wednesday, December 12, 2001

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Kline, P. J., Haerle, J., Ruvolo, J. and S. Graham, Deputy Clerk.

- A096423 Regents of the University of California
v.
Superior Court, Alameda County
Jonathan Rui
Cause called and argued by Christopher Patti, counsel for petitioner and Zachary Best, counsel for real party in interest. Cause ordered submitted.
- A090842 The People
v.
Randy Mouton, Eric Greene
and Curtis Carroll
Cause called and argued by Colleen Rohan, counsel for appellant Carroll, Victor Morse, counsel for appellant Greene, (telephonically by) Francia Welker, counsel for appellant Mouton and David Rose, Deputy Attorney General, counsel for respondent. Cause ordered submitted.
- A092020 The People
v.
Armando Barajas Ramirez
Cause called and argued by Joseph Baxter, counsel for appellant and Certified Law Student, Adriano Hrvatin, counsel for respondent. Cause ordered submitted.

A095456 Bradley C. Mart
 v.
 Leland Severson
Cause called and argued by Robert Stumpf, counsel for appellant and
Evelio M. Grillo and William N. Hancock, counsel for respondent. Cause
ordered submitted.

A092530 James Solomon
 v.
 William Gibson, et al.
Cause called and argued by Gregory Ellis, counsel for appellant and David
M. Parker and Edward Koplowitz, counsel for respondent. Cause ordered
submitted.

At this point in the proceedings, Justice Kline left the bench and Justice
Lambden joined the bench.

A094790 Susan Willey, et al.
 v.
 William Oswald
Cause called and argued by Kathryn L. Anderson, counsel for appellants
and P. Christian Scheley, counsel for respondent. Cause ordered submitted.

A094106 Eleanor Trengali, et al.
 v.
 Northern California Presbyterian Homes, Inc.
Cause called and argued by Kathryn L. Anderson, counsel for appellants
and Stephen Brooks, counsel for respondent. Cause ordered submitted.

Court recessed until Thursday, December 13, 2001 at 9:30 a.m.

Wednesday, December 12, 2001 (continued)

A094434 -- Neeraj Punglia v. State Personnel Board; Department of Transportation, R.P.I.

The judgment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Division Five

A092950 -- Jacqueline Bradley v. East Bay Transit Consortium/Intelitran.

The judgment denying the petition for a writ of review is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Thursday, December 13, 2001

Division One

A093088 -- The People v. Chalres D. Ilyin.

By the Court: The petition for rehearing is denied. Stein, Acting P.J.

Division Two

A096784 -- Joseph R. Teitgen v. The Superior Court of Solano County; People of the State of California, R.P.I.

Let a peremptory writ of mandate issue directing respondent superior court to vacate its order of October 30, 2001, denying petitioner's motion to disqualify Judge Kinnicutt and to enter a new and different order granting the motion. The stay of proceedings previously imposed is lifted. Our decision is final as to this court immediately. (Cal. Rules of Court, rule 24(d).) Kline, P.J. We Concur: Haerle, J., Lambden, J. (Not for Publication.)

A097100 -- In re Archie Delaney, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Petitioner must first seek relief, if any, in the superior court. Haerle, Acting P.J.

A094250 -- Judie Wilson v. Don Dao.

For the foregoing reasons, the judgment is affirmed. Appellant shall pay respondent her costs on appeal as well as \$1,432.70 in sanctions pursuant to section 128, subdivision (a). Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

MINUTES

CALIFORNIA COURT OF APPEAL FIRST APPELLATE DISTRICT DIVISION TWO

Thursday, December 13, 2001

The Court met at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Kline, P.J., Lambden, J., Ruvolo, J. and I. Santos, Deputy Clerk.

- A091654 Robert Marx,
 v.
 Peggy Miller et al.
 Called caused and Patricia Barry (via teleconference), counsel for
 appellant, and appellant Robert Marx and Scott Morris, counsel for
 respondent informed and explained to the court that the case has settled.
 Kline, P.J., informs counsels that the court may still file an opinion and
 address the motion for sanctions. Kline, P.J., informs counsels that there is
 no Motion to Dismiss before the court and when one is filed, the court will
 consider it.
- A091881 Denise Salerno,
 v.
 David Tudor.
 Cause called and argued by David Friedenberg, counsel for appellant, and
 Mark Bonino, counsel for respondent. Cause ordered submitted.
- A093351 Deanna Carol Carnes,
 v.
 Gail Mitchell et al.
 Cause called and argued by Pius Joseph, counsel for appellant, and
 Katharine Demgem, counsel for respondent. Cause ordered submitted.
- A092105 Yong Shao Ma et al.,
 v.
 City and County of San Francisco.
 Cause called and argued by David Russo, counsel for appellant, and Cheryl
 Adams, counsel for respondent. Cause ordered submitted.
 COURT ADJORNED.

Thursday, December 13, 2001 (continued)

Division Four

A094370 -- In re Tiffany A., a Person Coming Under the Juvenile Court Law. Contra Costa County Department of Children and Family Services v. Kim Bruce A. and Lorraine S.

The orders terminating parental rights are affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

A093958 --In re Jose P., a Person Coming Under the Juvenile Court Law. The People v. Jose P.

The judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

A095404 -- In re Dante S., a Person Coming Under the Juvenile Court Law. The People v. Dante S.

The true finding on the allegation of receiving stolen property is reversed and the abstract of judgment is ordered amended to reflect a maximum confinement of three years. In all other respects the judgment is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

Friday, December 14, 2001

Division One

A089978; A091120 -- Mattaniah Eytan v. Jonathan Wan.

The judgment and the order denying the motion for fees are affirmed. Each party to bear his own costs on appeal. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

A093945 -- The People v. Rogelio Lopez.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

A088687 -- The People v. William Moalem.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

Division Four

A094079 -- In re Kristen H., a Person Coming Under the Juvenile Court Law. Sonoma County Human Services Department v. Nina H.

The order is affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

A095782 -- In re Stanley T., a Person Coming Under the Juvenile Court Law. The People v. Stanley T.

The orders declaring the minor be continued as a ward of the court and that he be committed to the Youth Authority are affirmed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

A091926 -- The People v. Richard Marcum Quilopras.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

Monday, December 17, 2001

Division One

A094220 -- Toni Gutto et al. v. Christopher Patane et al.

The judgment is affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Swager, J. (Not for Publication.)

Division Three

A091870 -- William Y. Moores v. Permanente Medical Group, et al.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

Tuesday, December 18, 2001

Division Two

A093609 -- In re Tieasha H., a Person Coming Under the Juvenile Court Law. The People v. Tieasha H.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A093832 -- The People v. Benito Mario Melchiorre.

The judgment is affirmed. Lambden, J. We Concur: Kline, P.J., Ruvolo, J. (Not for Publication.)

Division Three

A087473 -- George Borg v. Transamerica Insurance Company.

The judgment is affirmed. Appellant Borg shall pay respondent Transamerica's costs on this appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A093807 -- In re Jason C., a Person Coming Under the Juvenile Court Law. The People v. Jason C.

In sum, the jurisdictional findings of the Contra Costa juvenile court are affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A087896 -- The People v. Geraldine Darden.

A093476 -- In re Geraldine Darden, on Habeas Corpus.

The judgment is modified to reflect 85 days of presentence conduct credits. As so modified, the judgment is affirmed. The habeas corpus petition is denied. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Tuesday, December 18, 2001 (continued)

A091045 -- The People v. Joseph Jamaul Johnson.

The judgment is affirmed. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

A094402 -- Gisela Anschuetz McKellar v. Steven Gourley, as Director, etc.

The judgment is reversed. The trial court is hereby ordered to issue a writ of mandate to Steven Gourley, Director, Department of Motor Vehicles, commanding Gourley and DMV to set aside and revoke the order of October 26, 2000, suspending appellant's driving privileges. DMV to bear costs of appeal. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Four

A094405 -- Craig K. Martin v. Richard Szeto et al.

By the Court: The request of appellants for publication of this court's November 28, 2001 opinion is granted, and it is hereby ordered that said opinion be published in the Official Reports of the State of California. Reardon, Acting P.J.

Division Five

A094526 -- In re Brandon L. et al., a Person Coming Under the Juvenile Court Law. Contra Costa County Social Service Department v. Epheanne E.

The juvenile court exit order is reversed, and the cause remanded to the family court to clarify the visitation issue in light of the views expressed herein. Simons, J. We Concur: Jones, P.J. Stevens, J. (Not for Publication.)

A095728 -- Volkswagen of America, Inc. v. The Superior Court of San Francisco County; Wilbur Adams et al., R.P.I.

The petition is denied. Jones, P.J. We Concur: Stevens, J., Simons, J. (Certified for Publication.)

MINUTES

COURT OF APPEAL STATE OF CALIFORNIA FIRST APPELLATE DISTRICT

DIVISION FIVE

Tuesday, December 18, 2001

Court convened at 9:00 a.m. in its Courtroom at 350 McAllister Street, Fourth Floor, San Francisco, California. Present: Jones, P.J.; Stevens, J.; Simons, J., and Mary P. Quilez, Deputy Clerk.

A092772 Storek & Storek

A093724 v.

Citicorp Real Estate

Cause called and argued by Jerome B. Falk, counsel for appellant and by Elliot Lewis Bien, counsel for respondent. Cause ordered submitted.

A091872 Melanie Stapper

v.

GMI Holdings, Inc.

Cause called and argued by Andrew Nathan Chang, counsel for appellant, and by John Robert Reese, counsel for respondent. Cause ordered submitted.

A094846 John P. Lynch

v.

Commercial Union Insurance Company

Cause called and argued by Michael J. Langston, counsel for appellant and by Ellyn Elizabeth Nesbit, counsel for respondent. Cause ordered submitted.

A092150 Rajesh Dandona et al.

A093916 v.

Bill Cole

Cause called and argued by Martin H. Dodd, counsel for appellants and by Gregg Lee Kays, counsel for respondent, by teleconference. Cause ordered submitted.

A092347 Clark Walker et al.

v.

Contra Costa County Fire Protection District

Cause called and argued by Duane Westlee Reno, counsel for appellants, and

Bernard Louis Knapp, counsel for respondent. Cause ordered submitted.

A092436 The People

v.

Michael Jay Matesky

Cause called and argued by David Frederick Addicks, counsel for appellant and by John H. Deist, Deputy Attorney General, counsel for respondent. Cause ordered submitted.

A089490 The People

A089491 v.

Sudi Pebbles Trippet

Cause called and argued by James Kyle Gee, counsel for appellant and by Michael E. Bannister, Deputy Attorney General, counsel for respondent, Cause ordered submitted.

A094086 The People

v.

Lawrence Rudy Kirk

Cause called and argued by Ozro William Childs, counsel for appellant and by Rene Chaconney, Deputy Attorney General, counsel for respondent, Cause ordered submitted.

Court adjourned at 1:30 a.m.

Wednesday, December 19, 2001

Division Two

A094297 -- In re Angel L. et al., a Person Coming Under the Juvenile Court Law. Contra Costa County Social Service Department v. Loney J. et al.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

Division Three

A090072 --The People v. Billy Earl Turner.

The judgment is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

Division Four

A092602 -- Emeric Delczeg et al. v. Lynn Lynch et al.

The judgment is affirmed. Costs are awarded to landlords. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

A095100 -- The People v. Aaron L. Potts.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Division Five

A095653 -- The People v. William Michael Littlefield.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

Thursday, December 20, 2001

Division Two

A094622 -- George A. McKray v. Robert E. Gonzales.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J.
(Not for Publication.)

A089070 -- David R. Olick v. Lawyers' Mutual Insurance Company, Inc.

The judgment is affirmed. LMIC is awarded costs. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A091961 -- San Mateo Land Exchange, et al. v. City of Half Moon Bay, et al.; Wavecrest Village LLC, et al., R.P.I.

The judgment is affirmed. Costs on appeal to respondents. Haerle, Acting P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Three

A094127 -- The People v. Gregory Kermit Dean.

The judgment is affirmed. McGuinness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A094787 -- In re Brianna H., a Person Coming Under the Juvenile Court Law. Social Services Agency v. Laura S.

The order of the juvenile court is affirmed. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

Thursday, December 20, 2001 (continued)

A095053 & A095787 -- In re Jesse H., a Person Coming Under the Juvenile Court Law. Social Services Agency v. Kristine H. In re Kristine H., on Habeas Corpus.

The juvenile Court is affirmed. The petition for habeas corpus is denied. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A092736 -- In re Ariyanna M-T, a Person Coming Under the Juvenile Court Law. Contra Costa Social Service Department v. Bryant T.

The order terminating Bryant's parental rights is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A094112 - The People v. Marlan Kevin Simpson.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

A088431 -- The People v. Mary Steiner et al.

The dismissal of counts 1, 53 and 85 is reversed. The dismissal of counts 27, 30, 33, 36. and 39 is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

A095565 -- The People v. Christopher Esteban Aguirre.

Judgment affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

A081424 -- The People v. Felix Hightower.

The judgment is affirmed as modified by the trial court's order of December 8, 1998. Sepulveda, J. I Concur: Reardon, Acting P.J. (Certified for Partial Publication.) (See dissenting opinion by Kay, J.)

A077543 -- The People v. Guillermo Rodriguez.

The judgment is reversed. Sepulveda, J. We Concur: Reardon, Acting P.J., Kay, J. (Not for Publication.)

MINUTES
CALIFORNIA COURT OF APPEAL
FIRST APPELLATE DISTRICT
DIVISION FOUR
Thursday, December 20, 2001

The Court convened at 9:30 a.m. in its courtroom at 350 McAllister Street, 4th Floor, San Francisco. Present: Reardon, Acting P.J., Sepulveda, J., and Kay, J.; Pamela Aguilar, Deputy Clerk; CHP Officer Jason Keirse, Bailiff.

A094853 People
 v.
 Steve Eng
Cause called. Marcie Neff argued for appellant Eng. Ryan B. McCarroll argued for respondent. Cause submitted.

A092567 People
A096594 v.
 Carlos Antonio Chico
Cause called. William Such argued for appellant/petitioner Chico. Deputy Attorney General Nanette Winaker argued for respondent. Cause submitted.

The Court recessed at 9:55 a.m.

Friday, December 21, 2001

Division One

A094936 -- The People v. Kevin William Hendrix.

Accordingly, the trial court erred by denying the motion to suppress evidence, and the judgment must be reversed. (*People v. Valenzuela, supra*, 28 Cal.App.4th at p. 834; *People v. Shields* (1988) 205 Cal.App.3d 1065, 1074.) The case is remanded to the trial court with directions to grant the motion to suppress evidence. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

A094485 -- Russian River Watershed Protection Committee v. Russian River County Sanitation District et al.

The judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

A093220 -- The People v. Jerome Benjamin Werner.

Accordingly, the judgment is affirmed. Swager, J. We Concur: Stein, Acting P.J., Marchiano, J. (Not for Publication.)

Division Two

A092006 -- The People v. Sheryl Leann Hansen.

The judgment is affirmed. Ruvolo, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A094902 -- In re Maria M., a Person Coming Under the Juvenile Court Law. The People v. Maria M.

The order is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

A092786 -- The People v. Enrico Byron Middleton.

The judgment is affirmed. Haerle, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

Friday, December 21, 2001 (continued)

A094427 -- The People v. Frank Newson.

The judgment is affirmed. Lambden, J. We Concur: Haerle, Acting P.J., Ruvolo, J. (Not for Publication.)

A095286 -- Estate of Al Russo, Deceased.

We hereby dismiss the appeal. Lambden, J. We Concur: Kline, P.J., Haerle, J. (Not for Publication.)

A097141 -- In re Larry Lawson, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

A096217 -- In re Gregory Sanders, et al., on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. Haerle, Acting P.J.

Division Three

A090806 -- The People v. Zachary Pugh.

The convictions are affirmed. The sentence is affirmed to the extent it imposed a 25-year-to-life sentence on count 4. The sentence for count 4 is reversed to the extent it imposed an unauthorized consecutive three-year low term and five-year great bodily injury enhancement. The remaining three-year low terms on counts 5 through 12 are also reversed because the trial court failed to make the required factual finding under section 667.61, subdivision (g). On remand, the trial court shall make the findings required by law, and sentence appellant accordingly. The new abstract of judgment shall reflect a great bodily injury finding for count 4 only. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

A093903 -- In re Kent T., a Person Coming Under the Juvenile Court Law. The People v. Keni T.

The orders of the juvenile court are affirmed. Corrigan, J. We Concur: McGuinness, P.J., Parrilli, J. (Not for Publication.)

Friday, December 21, 2001 (continued)

A095560 -- The People v. Wesley Emerald Tramble.

The judgment is affirmed. Corrigan, J. We Concur: McGuiness, P.J., Parrilli, J. (Not for Publication.)

Division Four

A092567 -- The People v. Carlos Chico.

A096594 -- In re Carlos Chico, on Habeas Corpus.

The judgment is affirmed. Sepulveda, J., We Concur: Reardon, Acting P.J., Kay, J. (Certified for Publication.)

A096594 -- In re Carlos Chico, on Habeas Corpus.

By the Court: The petition for writ of habeas corpus is denied. (Reardon, Acting P.J., Sepulveda, J., and Kay, J. joined in the decision.) Reardon, Acting P.J. (Certified for Publication.)

A088418 -- The People v. Juan A. Merced.

The judgment of conviction is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Certified for Partial Publication.)

Division Five

A093761 -- The People v. Frank Vincent DiGiuseppi.

The judgment of conviction is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J. (Not for Publication.)

A094718 -- Lombard Acceptance Corporation v. Town of San Anselmo, Jonathan Bulkley, Henry Conversano et al.

The order granting the preliminary injunction is affirmed. Respondents shall recover their costs for this appeal. Simons, J. We Concur: Jones, P.J., Stevens, J. (Certified for Publication.)

Monday, December 24, 2001

Division Two

A093136 -- Phoenix American, Inc., et al. v. Atlantic Mutual Insurance Company.

The judgment is affirmed. Ruvolo, J. We Concur: Haerle, Acting P.J., Lambden, J. (Not for Publication.)

Division Three

A087196 -- The People v. Malik Howse, et al.

By the Court: The petition for rehearing is denied. McGuinness, P.J.

Wednesday, December 26, 2001

Division One

**A096883 -- Serena M. v. The Superior Court of Sonoma County;
Sonoma County Human Services Department et al., R.P.I.**

The findings of juvenile court are supported by substantial evidence. The petition for extraordinary writ is denied on the merits. (See Cal. Const., art. VI, § 14; *Kowis v. Howard* (1992) 3 Cal.4th 888, 894; *Bay Development Ltd. v. Superior Court* (1990) 50 Cal.3d 1012, 1024.) The section 366.26 hearing is set for February 20, 2002. Therefore, our decision is final as to this Court immediately. (Cal. Rules of Court, rule 24(d).) (Not for Publication.)

A093115 -- The People v. Alvin Spade.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

Division Three

A094525 -- In re Felicia D., a Person Coming Under the Juvenile Court Law. Contra Costa County Social Services Department v. Wendy S.

The order of the juvenile court, finding Felicia adoptable and terminating parental rights is affirmed. McGuiness, P.J. We Concur: Corrigan, J., Parrilli, J. (Not for Publication.)

A091784 -- Joshua Jackson, a Minor, etc. v. Pacific Gas & Electric Company.

Judgment affirmed. Appellant shall bear costs of the appeal. Parrilli, J. We Concur: McGuiness, P.J., Jones, P.J. (Certified for Partial Publication.)

Division Four

The People v. Nathan B. Leslie.

The judgment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

Thursday, December 27, 2001

Division One

A094504 -- The People v. Leshawn Williams.

The judgment is affirmed. Stein, Acting P.J. We Concur: Swager, J., Marchiano, J. (Not for Publication.)

Division Two

A093172 -- The People v. Theodore Roosevelt Chastang.

The judgment is affirmed. Kline, P.J. We Concur: Lambden, J., Ruvolo, J. (Not for Publication.)

Division Three

A094136 -- Carolyn Young et al. v. Oakland Unified School District.

Judgment affirmed. Appellants to bear costs of the appeal. Parrilli, J. We Concur: McGuiness, P.J., Corrigan, J. (Not for Publication.)

Division Four

A094853 -- The People v. Steve Eng.

The judgment is affirmed. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Certified for Publication.)

A094067 -- In re Marriage of Kim and George Vroenen.

The order of the trial court is reversed. The cause is remanded to the trial court for determination of the amount of the child support arrearages and for an order directing Vroenen to pay that amount to Ostler. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Certified for Publication.)

Friday, December 28, 2001

Division Two

A092479/A093984 -- Pedus Security Services, Inc. v. Con-Way Western Express, Inc.

The summary judgment entered in favor of Con-Way on its cross-complaint against Pedus for contractual indemnity is reversed. The summary judgment entered in favor of Con-Way on Pedus's cross-complaint against Con-Way is affirmed. That portion of the December 5, 2000 order granting attorney fees to Con-Way is reversed. The matter is remanded to the trial court for a determination of the costs, if any, to be awarded to Con-Way as the prevailing party only on Pedus's cross-complaint. Ruvolo, J. We Concur: Kline, P.J., Lambden, J. (Not for Publication.)

A097085 -- Jose R. Perez et al. v. Ira Jacobowitz, et al.

By the Court: The petition for writ of supersedeas/stay is denied. Petitioners have a remedy at law by way of filing an appeal bond or undertaking. (See *Dowling v. Zimmerman* (2001) 85 Cal.App.4th 1400.) Haerle, Acting P.J.

Division Three

A089217 -- The People v. Dain Roy Birkley, et al.

A086947 -- The People v. Stephen Parker.

Birkley's sentence is vacated and the matter is remanded for resentencing. The new sentence shall not include an order for payment of restitution. In all other respects, the judgments against Birkley, Bonavente and Parker are affirmed. Parrilli, J. We Concur: McGuinness, P.J., Corrigan, J. (Not for Publication.)

Division Four

A095372 -- Edward M. Alvarez v. Bay Area Sports Catering, LLC, et al.

The order is affirmed. Costs are awarded to Alvarez. Reardon, Acting P.J. We Concur: Sepulveda, J., Kay, J. (Not for Publication.)

Friday, December 28, 2001 (continued)

Division Five

A094421 -- The People v. Robert Lewis Abramski.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J.
(Not for Publication.)

A095429 -- The People v. Marlon Miles Connolly.

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J.
(Not for Publication.)

**A092400 -- N. Arden Danekas v. San Francisco Residential Rent
Stabilization and Arbitration Board.**

The order denying appellant's petition for writ of mandate is affirmed.
Respondent shall recover its costs for this appeal. Simons, J. We Concur: Jones,
P.J., Stevens, J. (Not for Publication.)

A094086 -- The People v. Lawrence Rudy Kirk.

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J.
(Not for Publication.)

**A094846 -- John P. Lynch v. Commercial Union Insurance Company et
al.**

The judgment is affirmed. Stevens, J. We Concur: Jones, P.J., Simons, J.
(Not for Publication.)

**A092347 -- Clark W. Walker et al. v. Contra Costa County Fire
Protective District et al.**

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J.
(Not for Publication.)

**A094076 -- In re Jumonte Y., a Person Coming Under the Juvenile
Court Law. The People v. Jumonte Y.**

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J.
(Not for Publication.)

Monday, December 31, 2001

Division One

A088396 -- The People v. Raymond Lamont Scott.

The judgment and sentence are affirmed. Marchiano, J. We Concur: Stein, Acting P.J., Lambden, J. (Not for Publication.)

Division Two

A093530 -- H. Lee Evans, et al. v. Alexander Anolik.

By the Court: The petition for rehearing is denied. Kline, P.J.

A097222 -- Federal Express Corp., et al. v. The Superior Court of Alameda County; Joann Kiefer, R.P.I.

By the Court: The petition for writ of mandate and stay is denied. Haerle, Acting P.J.

Division Four

A096022 -- The People v. Anthony Kevin Crosby.

The judgment is affirmed. Kay, J. We Concur: Reardon, Acting P.J., Sepulveda, J. (Not for Publication.)

A094405 -- Craig K. Martin v. Richard Szeto et al.

Order Modifying Opinion. By the Court: The opinion filed herein on November 28, 2001, is modified as follows: (See order.) This modification does not effect a change in the judgment. Reardon, Acting P.J.

Division Five

A095027 -- The People v. Tad Matthew Enholm.

The judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

Monday, December 31, 2001, (continued) breeth

Division Five

A092784 --The People v. Darold Bruce Richcreek.

As to counts 3, 4 and 10, the judgment is reversed. In all other respects, the judgment is affirmed. Simons, J. We Concur: Jones, P.J., Stevens, J. (Not for Publication.)

A091872 -- Melanie Stapper v. GMI Holdings, Inc., etc.

The judgment is affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)

A089490/A089491 -- The People v. Sudi Pebbles Trippet.

The trial court is ordered to prepare and to forward to the appropriate authorities, an amended abstract of judgment clarifying that payment of restitution is not a condition of probation. In all other respects, the judgment and posttrial order are affirmed. Jones, P.J. We Concur: Stevens, J., Simons, J. (Not for Publication.)